THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 20556 of 2005

Dated: 23.07.2005

Between

1. The Principal Secretary to Govt., Health,Medical & Family Welfare (C2) Dept., A.P., Hyderabad and others.

..Petitioners

and

B.Padmanabham

..Respondent

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 20556 of 2005

ORDER: (Per the Hon'ble Smt Justice T.Meena Kumari)

Challenging the order dated 27.04.2005 in O.A.No.96 of 2003 on the file of the A.P. Administrative Tribunal, the present writ petition has been preferred.

02. The respondent herein is the applicant whereas the writ petitioners are the respondents before the Tribunal. The status of the parties will be referred to as arrayed before the Tribunal.

03. Originally, the applicant has filed the O.A alleging that while he was working as Lay Secretary Grade-II, he was given posting as Lay Secretary and Treasurer Grade-I in the same pay scale purely on temporary basis without any preferential claim in Gandhi Hospital, Secunderabad. Subsequently he was promoted in the regular pay scale. After superannuation, the applicant requested the respondents to grant him the benefits of promotional scale from the date of actual holding of the promotional post and the same was rejected. Even the review petition filed before the Government and the petition before the Lok Adalat became futile. Hence, the applicant filed O.A. Basing on a judgment reported in 1998 SCC (L & S) 1127, the Tribunal has allowed the said O.A. Aggrieved by the same, the present writ petition is filed.

04. Learned Government Pleader for Medical Health submitted that since no counter has been filed before the Tribunal, the case of the applicant could not be controverted by placing the relevant material.

05. Heard the learned counsel on either side.

06. Perused the entire material available on record and the order impugned.

07. Admittedly, no counter has been filed in the instant O.A. In this view of the matter, the Tribunal ought to have passed the order on its own merits while relying on the judgment of the Apex Court (citation supra) and also after affording an opportunity to the other side so as to enable them to put forth their case by way of filing the counter in order to have an effective adjudication of the issue involved and also in order to avoid the multiplicity of the proceedings.

08. Taking over all view of the matter, we deem it appropriate to set aside the order impugned and remand the matter to the Tribunal for fresh consideration. However, the respondents are directed to file their counter within a period of four weeks from today and on filing such counter, the Tribunal is directed to dispose of the O.A within a period of three months thereafter, being uninfluenced by any of the observations made in this order.

09. Accordingly, the writ petition is allowed.

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JUSTICE T.MEENA KUMARI

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JUSTICE P.LAKSHMANA REDDY

23.09.2005

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